



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Paul A. Mueller et al.
For : CLIP-ON LABEL HOLDER FOR SHELF CHANNEL
Serial No. : 10/767,834
Filing Date : January 29, 2004
Examiner : G. C. Hoge
Last Office Action : June 26, 2006
Art Unit : 3611
Attorney Docket No. : FFRZ 2 00237

Cleveland, Ohio 44114-2518
July 14, 2006

REQUEST FOR REFUND PURSUANT TO 37 C.F.R. 1.28(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Refund Section, Accounting Division
Office of Finance

Dear Sir:

An Office Action dated November 1, 2005 was issued in connection with the above-identified case (Exhibit A). A response to the Office Action was due February 1, 2006. Applicant submitted a Petition for Extension of Time (Exhibit B) for a three month extension with an Amendment (Exhibit C), which was filed April 6, 2006.

Unfortunately, the caption of the Petition for Extension of Time contained the information for the wrong case. Serial No. 10/799,563 (another case of the assignee) was listed through error, instead of the correct Serial No. 10/767,834. Thus, the

07/20/2006 SDIRETA1 00000003 10767834

01 FC:2253

510.00 OP

Void date: 07/20/2006 SDIRETA1

07/20/2006 SDIRETA1 00000003 10767834

01 FC:2253

-510.00 OP

\$510.00 extension fee was incorrectly charged to U.S. Serial No. 10/799,563 using American Express Account No. [REDACTED].

Therefore, applicants respectfully request that the \$510.00 three month extension fee which was charged to U.S. Serial No. 10/799,563 be refunded to American Express Account No. 5785663227 [REDACTED].

In the meantime, the Patent Office charged a two month extension, to Deposit Account No. 06-0308 for the instant case (U.S. Serial No. 10/767,834). However, it appears to applicants that a three month extension should have been charged.

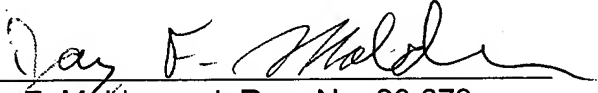
Thus, should it be necessary, applicants respectfully request that the third month of extension of time fee of \$285.00 for U.S. Serial No. 10/767,834 be charged to Deposit Account No. 06-0308. The authorization to charge any additional fees to the Deposit Account was given in the Amendment Transmittal Letter (Exhibit D) which was filed with the Amendment on April 6, 2006.

It is noted that both the Amendment of Exhibit C and the Amendment Transmittal Letter of Exhibit D listed the correct serial number. Only the Petition for Extension of Time of Exhibit B listed the wrong serial number.

Respectfully submitted,

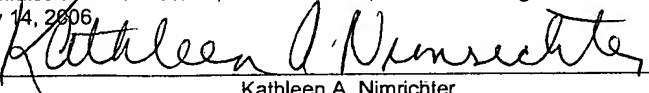
FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

14 July 2006
Date


Jay F. Moldovanyi, Reg. No. 29,678
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114
Phone: (216) 861-5582

CERTIFICATE OF MAILING

I hereby certify that this Request for Refund is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 14, 2006.


Kathleen A. Nimrichter

AMENDMENT TRANSMITTAL LETTER

Ser. No.: 10/767,834	Filed: January 29, 2004	Examiner: G. C. Hoge
Art Unit: 3611	Title: CLIP-ON LABEL HOLDER FOR SHELF CHANNEL	

To the Commissioner for Patents:

Transmitted herewith is an *Amendment* in the above-identified application. The fee has been calculated as shown below.

CLAIMS AS AMENDED					
	Claims remaining after amendment		Highest Number Previously Paid For	No. of Extra Claims Present	Rate
Total Claims	41	Minus	41	0	X \$25
Indep. Claims	5	Minus	5	0	X \$100
TOTAL					=
					\$0.00
<input checked="" type="checkbox"/>	No additional fee is believed due however, if this is not the case, the Commissioner is hereby authorized to charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.				
<input checked="" type="checkbox"/>	Payment for the filing of this Amendment and any appropriate extension of time fees are authorized to be charged to a Credit Card. The appropriate form PTO-2038 is enclosed for this purpose. If the Credit Card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.				
<input checked="" type="checkbox"/>	Applicant(s) hereby petition the Commissioner under 37 C.F.R. § 1.136(a) and request a 1 month extension of time to respond to the outstanding Office Action.				

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

Jay F. Moldovanyi
Jay F. Moldovanyi, Reg. No. 29,678
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

6 Apr '06
Date

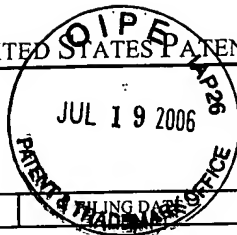
CERTIFICATE OF MAILING OR TRANSMISSION

- I certify that this Amendment Transmittal Letter and accompanying documents are being
- ☐ deposited with the United States Postal Service as First Class mail under 37 C.F.R. § 1.8, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
 - ☐ transmitted via facsimile under 37 C.F.R. § 1.8 on the date indicated below.
 - ☐ deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Express Mail Label No.:	Signature
	<i>Adeline Machado</i>
Date	Printed Name
April 6, 2006	Adeline Machado



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,834	01/29/2004	Paul A. Mueller	FFRZ 2 00237	5638

27885 7590 11/01/2005

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT PAPER NUMBER

3611

RECEIVED

DATE MAILED: 11/01/2005

NOV 03 2005

FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP

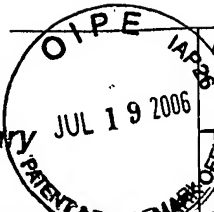
Please find below and/or attached an Office communication concerning this application or proceeding.

mu

EXHIBIT A

DOCKETED

Office Action Summary



Application No.

10/767,834

Examiner

Gary C. Hoge

Applicant(s)

MUELLER ET AL.

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-29 and 35-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/11/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 1-6, 40 and 41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 11, 2005.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "said ridge."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 7, 9, 10, 16, 28, 29, 35, 38, 39, 42 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Fast et al. (6,868,629).

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Regarding claims 7, 28 and 29, see Fig. 2. Fast discloses a label holder comprising a body panel 16 having a front surface, a rear surface, an upper end, and a lower end; a first clip member 32 extending away from the rear surface; a second clip member extending away from the rear surface, the second clip member being spaced from the first clip member, wherein the second clip member includes a stem 72; an upwardly extending arm 70a located adjacent a distal end of the stem; and, a downwardly extending arm 70b disposed adjacent the distal end of the stem; and, a cover panel 60 connected to the body panel, the cover panel having a front surface, a rear surface, an upper end, and a lower end. Because this is a subcombination claim directed to a label holder, and not a combination claim directed to a label holder and a shelf, the recitation that the first and the second clip members cooperate to selectively hold a projecting portion of an associated shelf is considered to be a functional recitation and a statement of intended use.

Regarding claim 28, Fast discloses a sign gripping member 50.

Regarding claims 16, 42 and 43, see Fig. 2. Fast discloses a holder for a label, the holder comprising a cover panel 60 having a front surface, a rear surface, an upper end, and a lower end; a body panel 16 having a front surface, a rear surface, an upper end, and a lower end; a clip 32 extending away from the body panel rear surface; a hinge 20 connecting the lower end of the cover panel with the lower end of the body panel, a first sign holder 50 mounted to the cover panel; and, a second sign holder 52 mounted to the cover panel.

6. Claims 7-15, 29, 35 and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Brinkman (5,899,011).

See Fig. 4. Brinkman discloses a label holder comprising a body panel 14 having a front surface, a rear surface, an upper end, and a lower end; a first clip member 70 extending away

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from the rear surface; a second clip member 60 extending away from the rear surface, the second clip member being spaced from the first clip member, wherein the second clip member includes a stem 62; an upwardly extending arm 67 located adjacent a distal end of the stem; and, a downwardly extending arm 130 disposed adjacent the distal end of the stem; and, a cover panel 20 connected to the body panel, the cover panel having a front surface, a rear surface, an upper end, and a lower end; the first and the second clip members cooperate to selectively hold a projecting portion 56 of an associated shelf.

Regarding claim 11, a portion 68 of the upwardly extending arm extends toward the rear surface of the body panel 14.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claims 17-21 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fast et al. (6,868,629) in view of Thompson (4,557,064).

Fast discloses the invention substantially as claimed, as set forth above. However, the first sign holder does not include flexible fins. Thompson teaches that it was known in the art to provide such a holder with flexible fins in order to hold the sign more securely. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sign holder disclosed by Fast with flexible fins, as taught by Thompson, in order to hold the sign more securely.

Regarding claims 20 and 46, the lower-most fin on the cover panel constitutes a ridge.

10. Claims 16-21, 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kump et al. (6,026,603) in view of Greenberger (4,373,693).

Kump discloses a holder for a label, the holder comprising a cover panel **28** having a front surface, a rear surface, an upper end, and a lower end; a body panel **20** having a front surface, a rear surface, an upper end, and a lower end; a clip **18** extending away from the body panel rear surface; a hinge **26** connecting the lower end of the cover panel with the lower end of the body panel, and a first sign holder **52** mounted to the cover panel. The first sign holder is designed to hold card-shaped objects. However, Klump does not disclose a second sign holder. Greenberger teaches that it was known to attach a sign holder to a card-shaped object. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign holder of the type taught by Greenberger to the label holder disclosed by Kump, in order to display a large, attention-getting sign to the label holder.

Regarding claim 20, the lower-most fin on the first sign holder constitutes a ridge.

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11. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kump et al. (6,026,603) in view of Greenberger (4,373,693) as applied to claim 17 above, and further in view of Gray (D453,798).

Kump, as modified by Greenberger, discloses the invention substantially as claimed, as set forth above. However, the clip structure disclosed by Greenberger includes a single protrusion that interacts with a single recess, rather than a series of opposing flexible fins. Gray teaches that a series of opposing flexible fins was a functionally equivalent support structure known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a series of opposing flexible fins, as taught by Gray, in the second sign holder as a matter of choice in design and in order to grip a plurality of discrete locations on the sign and thereby grip the sign more securely.

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kump et al. (6,026,603) in view of Greenberger (4,373,693) and Gray (D453,798) as applied to claim 24 above, and further in view of Thompson (4,557,064).

Kump, as modified, discloses the invention substantially as claimed, as set forth above. However, the reference to Gray is a design patent, and therefore it is not known whether the fins are made of a more flexible material than the two side walls. However, Thompson teaches (col. 2, lines 64-68) that it was known in the art to make such fins softer than the side walls to which they are attached. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the fins disclosed by Gray of a softer material than the side walls to which they are attached, as taught by Thompson, in order that they may bend with sufficient ease to grasp a sign placed therein.

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13. Claims 28 and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman (5,899,011) in view of Kump et al. (6,026,603).

See Fig. 4. Brinkman discloses a label holder comprising a body panel **14** having a front surface, a rear surface, an upper end, and a lower end; a first clip member **70** extending away from the rear surface; a second clip member **60** extending away from the rear surface, the second clip member being spaced from the first clip member, wherein the second clip member includes a stem **62**; an upwardly extending arm **67** located adjacent a distal end of the stem; and, a downwardly extending arm **130** disposed adjacent the distal end of the stem; and, a cover panel **20** connected to the body panel, the cover panel having a front surface, a rear surface, an upper end, and a lower end; the first and the second clip members cooperate to selectively hold a projecting portion **56** of an associated shelf. However, Brinkman does not disclose a sign gripping member attached to the cover panel. Kump teaches that it was known in the art to attach a sign gripping member to the cover panel of a label holder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign gripping member to the cover panel of the label holder disclosed by Brinkman, as taught by Kump, in order to hold a sign that is too big to fit behind the cover panel.

Regarding claim 46, the lower-most fin on the cover panel constitutes a ridge.

14. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman (5,899,011) in view of Wildrick (6,470,613).

Brinkman discloses the invention substantially as claimed, as set forth above. However, the first gripping member **70** includes a first portion oriented generally perpendicular to the rear panel, a second portion connected to the first portion and oriented generally parallel to the rear

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panel, and then another portion oriented generally perpendicular to the rear panel, but does not include a third portion that extends toward the rear panel and a fourth portion that is oriented generally parallel to the rear panel. Such portions would have the effect of causing the first gripping member to curve more toward the rear panel, thus putting more pressure on the shelf to which the gripping member is attached. See Fig. 1 of Wildrick. Wildrick teaches that it was known in the art to provide a gripping member having a first portion oriented generally perpendicular to the rear panel, a second portion connected to the first portion and oriented generally parallel to the rear panel, a third portion extending toward the rear panel, a fourth portion oriented generally parallel to the rear panel (i.e., a portion of the upper curve is momentarily parallel to the rear panel), and a fifth portion oriented generally perpendicular to the rear panel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the label holder disclosed by Brinkman with a gripping member of the type taught by Wildrick, in order to put more pressure on the shelf and thereby to grip it more firmly.

Conclusion


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

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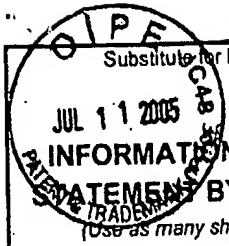
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch



Substitute for Form 1449/PTO

COMPLETE IF KNOWN

Application Number	10/767,834
Filing Date	January 29, 2004
First Named Inventor	Paul A. Mueller et al.
Art Unit	3611
Examiner Name	Paul Royal
Attorney Docket No.	FFRZ 2 00237

Sheet 1 of 1

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	Document No. Number-Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
GAH	AA	US-6,688,567	02/10/2004	Fast et al.
GAH	AB	US-6,708,436	03/23/2004	Nagel
GAH	AC	US-2004/0250459	12/16/2004	Brinkman et al.
GAH	AD	US-2005/0133676	06/23/2005	Brinkman et al.
	AE	US-		
	AF	US-		
	AG	US-		
	AH	US-		
	AI	US-		
	AJ	US-		
	AK	US-		
	AL	US-		

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T
		Country Code-Number Kind Code (if known)			
	AM				
	AN				
	AO				
	AP				

OTHER - NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume issue number(s), publisher, city and/or country where published	T
	AQ		
	AR		
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	AU		
	AV		

N:\FFRZ\200237\KAN0004325V001.doc

Examiner Signature <i>Gary Hoge</i>	Date Considered 10/26/05
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Notice of References Cited

Application/Control No.

10/767,834

Applicant(s)/Patent Under
Reexamination
MUELLER ET AL.

Examiner

Gary C. Hoge

Art Unit

3611

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-4,373,693 A	02-1983	Greenberger, William	248/220.22
	B	US-4,557,064 A	12-1985	Thompson, James O.	40/661.03
	C	US-5,899,011 A	05-1999	Brinkman, Michael	40/661.03
	D	US-5,967,343 A	10-1999	Dufresne, Ronald	211/86.01
	E	US-6,026,603 A	02-2000	Kump et al.	40/661.03
	F	US-6,105,295 A	08-2000	Brinkman et al.	40/661.03
	G	US-D453,798 S	02-2002	Gray, Robert	D20/43
	H	US-6,354,546 B1	03-2002	Mueller, Paul A.	248/220.42
	I	US-6,470,613 B1	10-2002	Wildrick, Richard J.	40/661.03
	J	US-2004/0200793 A1	10-2004	Hardy, Stephen Neal	211/119.003
	K	US-6,868,629 B2	03-2005	Fast et al.	40/661.03
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Paul A. Mueller et al.

For : CLIP-ON LABEL HOLDER FOR SHELF CHANNEL

Serial No. : 10/767,834

Filing Date : January 29, 2004

Examiner : G. C. Hoge

Last Office Action : November 01, 2005

Art Unit : 3611

Attorney Docket No. : FFRZ 2 00237

Cleveland, Ohio 44114-2518

AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated November 1, 2005, please amend the above-captioned patent application as follows.

Amendment to the claims begin on page 2.

Remarks begin on page 11.

CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner For Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on

4-6-06

Adeline Machado

IN THE CLAIMS:

Please cancel claims 1-6 and 40-42 without prejudice.

Amend claims 7, 16, 22, 23, 28, 29, 43, 44, and 46 as follows.

Please add new claims 47-53 as follows.

1 – 6. (Canceled)

7. (Currently Amended) A label holder comprising:

a body panel having a front surface, a rear surface, an upper end, and a lower end;

a first clip member extending rearwardly away from said rear surface;

a second clip member extending rearwardly away from said rear surface, said second clip member being spaced from said first clip member, wherein said second clip member includes:

a stem;

an upwardly extending arm located adjacent a distal end of said stem; and,

a downwardly extending arm extending from said stem and disposed adjacent said distal end of said stem wherein said downwardly extending arm is disposed at an acute angle in relation to said stem;

wherein said first and said second clip members cooperate to selectively hold a projecting portion of an associated shelf; and,

a cover panel connected to said body panel, said cover panel having a front surface, a rear surface, an upper end, and a lower end.

8. (Original) A label holder as set forth in claim 7, wherein said first clip member generally defines an L-shape and is connected proximal to said lower end of said body panel.

9. (Original) A label holder as set forth in claim 7, further comprising a hinge for connecting said lower end of said cover panel with said lower end of said body panel.

10. (Original) A label holder as set forth in claim 7, wherein said front surface of said body panel and said rear surface of said cover panel define a pocket therebetween for selectively accommodating an associated label.

11. (Original) The label holder as set forth in claim 7, wherein said upwardly extending arm extends toward said rear surface of said body panel.

12. (Original) The label holder as set forth in claim 11, wherein said upwardly extending arm is oriented approximately transverse to said rear surface of said body panel.

13. (Original) The label holder as set forth in claim 12, wherein said upwardly extending arm includes a contact end for contacting said rear surface of said body panel thereby limiting upward movement of said stem member.

14. (Original) The label holder as set forth in claim 7, wherein said downwardly extending arm extends toward said lower end of said body panel.

15. (Original) The label holder as set forth in claim 14, wherein said downwardly extending arm includes a contact end for contacting an end of the associated shelf thereby limiting movement of said holder in relation to the associated shelf.

16. (Currently Amended) A holder for a label, said holder comprising:
a cover panel having a front surface, a rear surface, an upper end, and a lower end;
a body panel having a front surface, a rear surface, an upper end, and a lower end;
a clip having a first portion secured to said rear surface of said body panel proximal to said lower end, said clip extending rearwardly away from said body panel rear surface;
a hinge connecting said lower end of said cover panel with said lower end of said body panel;
a first sign holder is mounted to said cover panel; and,

a second sign holder selectively mounted to said cover panel.

17. (Original) The label holder as set forth in claim 16, wherein said first sign holder comprises an overhang having a first flexible fin on said cover panel and a second flexible fin on said overhang.

18. (Original) The label holder as set forth in claim 17, wherein said fins each extend more than half the distance between said overhang and said cover panel.

19. (Original) The label holder as set forth in claim 17, wherein said fins are made of a more flexible material than said cover panel.

20. (Original) The label holder as set forth in claim 17, further comprising a ridge on said cover panel.

21. (Original) The label holder as set forth in claim 20, wherein said ridge is directed towards said opening between said overhang and said cover panel.

22. (Currently Amended) The label holder as set forth in claim ~~[[17]]~~ 20, wherein said second sign holder includes a finger cooperating with said ridge of said cover panel ~~first sign holder~~.

23. (Currently Amended) The label holder as set forth in claim 17, wherein said second sign holder is oriented approximately normal to said first sign holder.

24. (Original) The label holder as set forth in claim 17, wherein said second sign holder comprises a first side wall, a second side wall, a first fin, and a second fin.

25. (Original) The label holder as set forth in claim 24, wherein said fins each extend more than half the distance between said side walls and are interleaved.

26. (Original) The label holder as set forth in claim 24, wherein said fins are made of more flexible material than said two side walls.

27. (Original) The label holder set forth in claim 17, wherein said second sign holder comprises a mounting member and a sign gripping member.

28. (Currently Amended) A holder for a label, said holder comprising:
a cover panel having a front surface, a rear surface, an upper end, and a lower end;
a body panel having a front surface, a rear surface, an upper end, and a lower end;
a hinge connecting said lower end of said cover panel with said lower end of said body panel;
said cover panel including a sign gripping member;

a first clip member extending rearwardly away from said rear surface of said body panel;

a second clip member extending rearwardly away from said rear surface of said body panel, said second clip member being spaced from said first clip member, wherein said second clip member includes a stem, an upwardly extending arm located adjacent a distal end of said stem, and a downwardly extending arm disposed adjacent said distal end of said stem; and,

wherein said first and second clip members cooperate to selectively hold a projecting portion of an associated shelf.

29. (Currently Amended) A label holder comprising:

a rear panel;

a front panel secured to said rear panel along a bottom edge of said front panel, said front panel including a first sign holder;

a first gripping member extending rearwardly from said rear panel for selectively securing the label holder to an associated merchandising shelf; and,

a second gripping member extending rearwardly from said rear panel, said second gripping member being spaced from said first gripping member, wherein said first and second gripping members are of one piece with a first portion of said rear panel, wherein said second gripping member comprises:

a stem,

a first arm extending in a first direction from said stem, and

a second arm extending in a second direction from said stem.

30-34. (Cancelled)

35. (Previously Presented) The label holder of claim 29, wherein said first and second gripping members cooperate to hold a portion of the associated merchandising shelf between them.

36. (Original) The label holder of claim 29, wherein said first gripping member comprises:

- a first portion oriented generally perpendicular to said rear panel;

- a second portion connected to said first portion and oriented generally parallel to said rear panel;

- a third portion, connected to said second portion and extending towards said rear panel;

- a fourth portion, connected to said third portion and oriented generally parallel to said rear panel; and,

- a fifth portion, connected to said fourth portion and oriented generally perpendicular to said rear panel.

37. (Previously Presented) The label holder of claim 29, wherein said first gripping member cooperates with said rear panel to form a pocket and said second gripping member is located in said pocket.

38. (Original) The label holder of claim 29, wherein said front panel comprises a transparent material.

39. (Original) The label holder of claim 38, wherein said front and rear panels cooperate to hold an associated merchandising label between them, the associated merchandising label being selectively removable from the label holder.

40-42. (Canceled)

43. (Currently Amended) The label holder of claim ~~[[42]]~~ 29 further comprising a second sign holder selectively securable to a portion of said front panel.

44. (Currently Amended) The label holder of claim ~~[[42]]~~ 29 wherein said first sign holder comprises an overhang connected to said front panel, a first flexible fin located on said cover panel and a second flexible fin located on said overhang.

45. (Previously Presented) The label holder of claim 44 wherein said fins each extend more than half the distance between said overhang and said cover panel.

46. (Currently Amended) The label holder of claim ~~[[42]]~~ 29 further comprising a ridge on said cover panel.

47. (New) A label holder comprising:

a body panel including a rear surface;

a first clip member extending away from said rear surface;

a second clip member extending away from said rear surface, wherein said second clip member is approximately arrow-shaped in cross-section and comprises:

a stem, and

a head including a first arm and a second arm, said arms being angled in relation to each other wherein said first and second clips are spaced from each other and define a pocket between them; and,

a cover panel connected to said body panel.

48. (New) The label holder of claim 47 wherein said first clip member comprises a first portion which extends approximately parallel to said second clip member stem.

49. (New) The label holder of claim 48 wherein said first clip member further comprises a second portion which extends approximately normal to said first portion.

50. (New) The label holder of claim 49 wherein said first clip second portion includes a section that is aligned with and spaced from a tip of said second clip head.

51. (New) The label holder of claim 49 wherein said first clip second portion and said second clip cooperate to define a throat leading to said pocket.

52. (New) The label holder of claim 47 wherein said first clip includes a first portion located beneath said second clip, a second portion coplanar with and spaced from a distal end of said second clip and a third portion located above said second clip.

53. (New) The label holder of claim 52 wherein said first clip further includes a fourth portion located above said third portion and extending at an angle thereto.

REMARKS

The Office Action of November 1, 2005 has been studied in detail along with the references applied as cited by the Examiner. In response, the withdrawn claims (Claims 1-6, and 40-41) have been canceled without prejudice, claim 42 has been canceled, other claims amended (Claims 7, 16, 22, 23, 28, 29, 43, 44, and 46), and new claims (Claims 47-53) have been added. The pending claims should be read in conjunction with the accompanying arguments in support of patentability. Further examination and reconsideration of the application as amended are respectfully requested.

The Office Action

Claim 22 was rejected under 35 U.S.C. §112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7, 9, 10, 16, 28, 29, 35, 38, 39, 42 and 43 were rejected under 35 U.S.C. §102(e), as being anticipated by Fast, et al. (6,868,629).

Claims 7-15, 29, 35 and 37-39 were rejected under 35 U.S.C. §102(b) as being anticipated by Brinkman (5,899,011).

Claims 17-21 and 44-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fast, et al. in view of Thompson (4,557,064).

Claims 16-21, 23 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kump, et al. (6,026,603) in view of Greenberger (4,373,693).

Claims 24 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kump, et al. in view of Greenberger and further in view of Gray (D453,798).

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kump, et al. in view of Greenberger and Gray and further in view of Thompson.

Claims 28 and 42-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brinkman (5,899,011) in view of Kump, et al.

Claim 36 was rejected under 35 U.S.C. §103(a) as being unpatentable over Brinkman in view of Wildrick (6,470,613).

Rejections Under 35 U.S.C. §102(e)

The Examiner rejected Claims 7, 9, 10, 16, 28, 29, 35, 38, 39, 42 and 43 under 35 U.S.C. §102(e) as being anticipated by Fast, et al. The Fast reference discloses a label holder including a body panel connected at its lower edge by a resilient hinge to a transparent cover member to form an openable pocket for labels therebetween. Fast, et al. describes a single rearwardly extending clip having an upwardly extending arm (70A) and a downwardly extending arm (70B) of the rear panel element (70) being snappingly engaged between the upper and lower lips of a C channel (78) as seen in Figure 3 (column 4, lines 40-47).

In contrast, amended Claim 7 recites a first clip member extending rearwardly away from the rear surface and a second clip member extending rearwardly away from the rear surface. In addition, amended Claim 7 recites a downwardly extending arm extending from said stem and disposed adjacent said distal end of said stem wherein said downwardly extending arm is disposed at an acute angle in relation to said stem.

Amended Claim 16 now recites a clip having a first portion secured to said rear surface of said body panel proximal to said lower end, said clip extending rearwardly away from said body panel rear surface.

Independent Claim 28 has been amended and now recites a first clip member extending rearwardly away from said rear surface of said body panel and a second clip member extending rearwardly away from said rear surface of said body panel and the first and second clip members cooperate to selectively hold a projecting portion of an associated shelf.

Independent Claim 29 has been amended and now recites said front panel including a first sign holder. The label holder further includes a first gripping member extending rearwardly from said rear panel for selectively securing the label holder to an associated merchandising shelf, and, a second gripping member extending rearwardly from said rear panel, said second gripping member being spaced from said first gripping member, wherein said first and second gripping members are of one piece with a first portion of said rear panel.

None of the aforementioned structures, recited in independent Claims 7, 16, 28 and 29, are shown in Fast, et al. Fast, et al. does not describe or show two rearwardly extending clip members. Additionally, Fast, et al. does not describe a clip having a first portion secured to the rear panel proximal to the lower end thereof. Finally the applied reference does not show a second clip with a downwardly extending arm disposed at an acute angle in relation to a stem. Applicants submit that the pending independent Claims 7, 16, 28 and 29, and all claims dependent therefrom, are not anticipated by

Fast, et al. for at least the reasons set forth above, and are allowable over this record art. Applicants accordingly request reconsideration and allowance thereof.

The Examiner next rejected Claims 7-15, 29, 35 and 37-39 under 35 U.S.C. §102(b) as being anticipated by Brinkman.

Applicants have amended independent Claim 7 to recite a downwardly extending arm extending from said stem and disposed adjacent said distal end of said stem wherein said downwardly extending arm is disposed at an acute angle in relation to said stem. Brinkman does not have a downwardly extending arm extending from the stem. Furthermore, independent Claim 29 has been amended to recite a front panel secured to said rear panel along a bottom edge of said front panel, said front panel including a first sign holder. Brinkman does not describe a sign holder as part of the cover panel (front panel). Applicants submit that independent Claims 7 and 29, and all claims dependent therefrom, are not anticipated by Brinkman for at least the reasons set forth above, and are allowable over this record art.

Rejections Under 35 U.S.C. §103(a)

The Examiner next rejected Claims 17-21 and 44-46 under 35 U.S.C. §103(a) as being unpatentable over Fast, et al. in view of Thompson.

As discussed above, Fast, et al. does not anticipate nor make obvious Applicant's invention as recited in amended independent Claims 16 and 29. The arguments raised above are equally appropriate here and will not be repeated. Furthermore, combining Fast, et al. with Thompson, even if suggested, would not result in a clip proximal to a lower end of the body panel as recited in Claim 16. Claims 17-

21, dependent from Claim 16, recite additional limitations not anticipated nor made obvious by Fast et al. in view of Thompson.

In addition, independent Claim 29 recites a first and second gripping members extending rearwardly from the rear panel for selectively securing the label holder to an associated merchandising shelf. Combining Fast et al. with Thompson would not result in first and second gripping members extending rearwardly from the rear panel. Claims 44 and 46 have been amended and are now dependent upon independent Claim 29. Claim 45 remains dependent upon Claim 29. These claims further recite additional limitations not anticipated nor made obvious by Fast, et al. or Thompson, either singly or in combination. Consequently, Claims 17-21 and 44-46 define over any fair teachings attributable to the cited references.

The Examiner next rejected Claims 16-21, 23 and 27 as being unpatentable over Kump, et al. in view of Greenberger.

The references contain no motivation or suggestion to combine the references. Furthermore, Greenberger teaches away from Kump, et al. In particular, Greenberger teaches a clip and "at least two diametrically opposed rounded corners 35 are provided thereon to facilitate its attachment to a shelf molding 36". The mounting device "includes first resilient roughly rectangular 42 member which can be snapped in a channel of a shelf molding 36". (Column 2, lines 14-31). As such, the two alternative mounting arrangements described in Greenberger relate to mounting a molding clip directly to the shelf molding. Combining Greenberger with Kump, et al. would not provide a second sign holder selectively mounted to the Kump cover panel. In particular, Greenberger's two alternative mounting members could not successfully

mount to the cover panel (28) as shown in Kump, et al. Kump has no structure akin to the Greenberger shelf molding 36. Thus, if one attempted to mount the Greenberger clip to the Kump cover panel 28, or the card holder 52, the Greenberger clip would simply fall away. Consequently, independent Claim 16, and all claims dependent therefrom, define over any fair teachings attributable to the references either taken singly or in combination.

The Examiner next rejected Claims 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over Kump, et al. in view of Greenberger as to Claim 17 above, and further in view of Gray.

The arguments discussed above are equally appropriate here and will not be repeated. Gray, similar to Greenberger, shows a sign holder adapted for mounting to the shelf molding. Combining Greenberger and/or Gray with Kump, et al. would not result in a first sign holder mounted to a cover panel and a second sign holder that could be successfully mounted to a cover panel as recited in independent Claim 16. Dependent Claims 24 and 25 recite further limitations which distinguish these claims from the cited references either taken singly or in combination.

The Examiner next rejected Claim 26 under 35 U.S.C. §103(a) as being unpatentable over Kump, et al. in view of Greenberger and Gray as applied to Claim 24 above, and further in view of Thompson. As discussed above, there is no motivation nor suggestion to combine these references. Only Applicant's disclosure provides for a first and second sign holder mounted to the cover panel. Greenberger, Gray, and Thompson merely describe alternative sign holders for mounting directly to a shelf

molding . Consequently, Claim 26 defines over any fair teachings attributable to the references either taken singly or in combination.

The Examiner next rejected Claims 28 and 42-46 under 35 U.S.C. §103(a) as being unpatentable over Brinkman in view of Kump, et al. Combining Brinkman with Kump, et al is not suggested. In particular mounting the Kump display card holder 52 to the cover (20) of Brinkman would prevent the cover from closing against the body panel (15) thereby not allowing Brinkman to function to hold a label between the body panel and the cover. Note that Kump has a front panel 28 which is taller than the rear panel 20. But such a taller front panel could not be imported into Brinkman since then it would interfere with ledge member 86 which extends forwardly from Brinkman's body panel 15.

Furthermore, as to dependent Claims 43-46, these claims further recite a second sign holder selectably securable to a portion of the front panel. Combining Brinkman with Kump, et al. even though not suggested, would not result in a second sign holder securable to a portion of the front panel as recited in dependent Claims 43-46. Consequently, independent Claim 28, and Claims 43-46, define over any fair teachings attributable to the references either taken singly or in combination.

The Examiner next rejected Claim 36 under 35 U.S.C. §103(a) as being unpatentable over Brinkman in view of Wildrick.

Dependent Claim 36 is dependent upon independent Claim 29. Independent Claim 29 recites a label holder with first and second spaced gripping members. The arguments discussed above are equally appropriate here, and will not be repeated.

Brinkman in view of Wildrick, does not anticipate nor make obvious Applicant's invention as recited in independent Claim 29 and dependent Claim 36 therefrom.

Applicant has added new Claims 47-53. Claims 48-53 are either directly or indirectly dependent upon independent Claim 47. Claim 47 recites first and second clip members extending away from a rear surface of a body panel. The clips are spaced from each other to define a pocket between them. The second clip member is approximately arrow shaped in cross section and comprises a stem and a head. The head includes a first arm and a second arm. A cover panel is connected to the body panel. Claims 48-52 provide further limitations to the first and second clip members. All of these claims are supported by the specification (for example, pages 7 and 8) and the figures as originally filed and are not anticipated nor made obvious by the references of record.

All formal and informal matters having been addressed, this application is in condition for allowance. Early Notice to that effect is solicited.

Respectfully submitted,

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6 Apr '06
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